

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

**RICKY BREWER, KIMBERLY  
BREWER, Individually and on behalf  
of BAILEY URELIUS, TAYLOR  
BREWER and LYNDSEE BREWER,**

**Plaintiffs,**

**vs.**

**JEREMY J. YAEGER, PATRICIA E.  
BURGE, KARIN J. SCHNEIDER,  
PROGRESSIVE NORTHERN  
INSURANCE COMPANY and all  
other KNOWN AND UNKNOWN  
PARTIES,**

**Defendants.**

**No. C10-0097**

**ORDER FOR SEPARATE TRIALS**

---

This matter comes before the Court on the Motion to Sever (docket number 15) filed by Defendant Progressive Northern Insurance Company ("Progressive") on November 1, 2010, the Resistance (docket number 16) filed by the Plaintiffs ("the Brewers") on November 3, 2010, and the Reply (docket number 17) filed by Progressive on November 5, 2010. Defendants Jeremy J. Yaeger, Patricia E. Burge, and Karin J. Schneider have not filed a response to the instant motion, and the time for doing so has now expired.

This case was initiated on June 18, 2009, with the filing of a petition at law in the Iowa District Court for Linn County. The action was removed to the United States District Court for the Northern District of Iowa on July 16, 2010. The Brewers claim that Defendants Yaeger, Burge, and Schneider were negligent in the operation of their respective motor vehicles on December 20, 2008, thereby contributing to an accident

which resulted in damages to the Brewers. In addition, the Brewers seek damages against Progressive pursuant to an insurance policy providing uninsured and underinsured motorist coverage to the Brewers. Trial is now scheduled for November 28, 2011.

In its instant motion, Progressive asserts that “the underinsured motorist benefits claims against Defendant Progressive Northern Insurance Company should be tried after the case in chief to prevent prejudice against all Defendants.” The motion further asserts that Progressive “agrees to be bound by the findings of fault and damages resulting from the trial on the claims against Defendants, Jeremy Yaeger, Patricia Burge and Karen Schneider.” Progressive asserts, however, that “it is not necessary to sever the claims for purposes of discovery,” and asks that it “be permitted to conduct and participate in discovery during the pendency of this action.”

In their resistance, the Brewers state that they do not object to Progressive’s motion to sever, provided the Court’s order includes the following:

- a. Defendant Progressive is bound by any verdict awarded in the trial against Defendants Yaeger, Burge, and Schneider pursuant to *Handley v. Farm Bureau Mutual Ins. Co.*, 467 N.W.2d 247, 249-50 (Iowa 1991);
- b. The claims against Defendants Yaeger, Burge, Schneider, and Progressive will track together for purposes of discovery; and
- c. The trial against Progressive shall remain on the calendar as scheduled unless and until it becomes apparent that the Plaintiffs’ claims against Defendants Yaeger, Burge, and Schneider will proceed to trial on the scheduled trial date.

*See the Brewers’ Resistance to Motion to Sever (docket number 16) at 1.*

In its response to the Brewers’ resistance, Progressive agrees to the conditions identified by the Brewers. The Court finds that the motion to sever should be granted on that basis.

## ORDER

IT IS THEREFORE ORDERED that the Motion to Sever (docket number 15) filed by Progressive is **GRANTED** as follows:

1. Progressive will be bound by any verdict awarded in the trial against Defendants Yaeger, Burge, and Schneider, pursuant to *Handley v. Farm Bureau Mutual Ins. Co.*, 467 N.W.2d 247, 249-50 (Iowa 1991).

2. The claims against Defendants Yaeger, Burge, Schneider, and Progressive will track together for purposes of discovery.

3. The trial against Progressive shall remain on the calendar as scheduled unless and until it becomes apparent that the Plaintiffs' claims against Defendants Yaeger, Burge, and Schneider will proceed to trial on the scheduled trial date.

DATED this 19th day of November, 2010.



---

JON STUART SCOLES  
UNITED STATES MAGISTRATE JUDGE  
NORTHERN DISTRICT OF IOWA